

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>June 28, 2018</u>
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MALIBU MEDIA, LLC,

Plaintiff,

v.

JOHN DOE,

Defendant.  
-----X

17 Civ. 9962 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

On June 27, 2018, Plaintiff filed a motion to strike portions of Defendant's reply brief or, in the alternative, for leave to file a surreply brief. (Dkt. #26). Plaintiff notes that, in Defendant's reply brief, dated June 21, 2018, he raised a new argument not addressed in his opening brief — namely, that the Court should consider sanctions under 28 U.S.C. § 1927. (*Id.* at ¶ 5). Plaintiff further notes that raising new legal arguments for the first time in a reply brief is improper. (*Id.* at ¶ 6 (citing *Rowley v. City of N.Y.*, No. 00 Civ. 1793 (DAB), 2005 WL 2429514, at \*5 (S.D.N.Y. Sept. 30, 2005))).

The Court agrees with Plaintiff. Therefore, Plaintiff's request to file a surreply brief is GRANTED. However, given the brevity of Defendant's discussion of § 1927 in his reply brief, Plaintiff's surreply may not exceed 5 pages, nor may it address any arguments other than the viability of sanctions under § 1927. Plaintiff's surreply brief is due on or before **July 10, 2018**.

SO ORDERED.

Dated: June 28, 2018  
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

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KATHERINE POLK FAILLA  
United States District Judge

***Copy mailed by Chambers to Defendant John Doe.***